
 In the Matter of the Petition of
 VILLAGE OF WEST MILWAUKEE
 To Initiate Final and Binding
 Arbitration Between Said Petitioner
 and
 WEST MILWAUKEE PROFESSIONAL
 POLICEMEN'S ASSOCIATION

Case X
 No. 17424 MIA-72
 Decision No. 12444-A

Appearances:

Mr. Gerald P. Boyle, Attorney at Law, for the Association.
Peck, Brigden, Petajan, Lindner, Honzik & Peck, Attorneys at Law, By Mr. Roger E. Walsh, for the Employer.

FINAL AND BINDING ARBITRATION AWARD

On March 4, 1974, the undersigned was appointed by the Wisconsin Employment Relations Commission as arbitrator under Section 111.77(3)(b), Wis. Stats., to issue a final and binding award to resolve an impasse between Village of West Milwaukee, hereinafter referred to as the Employer, and West Milwaukee Professional Policemen's Association, hereinafter referred to as the Association. A hearing was held at West Milwaukee, Wisconsin, on April 23, 1974, at which time both parties were given full opportunity to present evidence and testimony and make arguments in support of their positions. The record was completed with the exchange of post-hearing briefs on May 30, 1974.

Prior to five days before the hearing, both parties submitted their final offers to the arbitrator. Those offers were as follows:

"VILLAGE'S LAST OFFER ON ITEMS IN DISPUTE
 AS OF APRIL 12, 1974"

1. Salaries

Section 4.02 shall read:

'4.02 - Effective January 1, 1974, the salaries of the employees shall be established as follows:

<u>Classification</u>	<u>Monthly Salary</u>
Sergeant of Police, Detective, Juvenile Officer/Detective	
First Year	\$1,105.64
Second Year	\$1,147.31
Patrolman	
First Year	\$ 880.00
Second Year	\$ 910.00
Third Year	\$ 950.00
Fourth Year	\$1,000.00
Fifth Year	\$1,055.00

2. Longevity

Section 5.01 shall read:

'5.01 - Employees, except part-time and temporary employees, shall be paid a monthly longevity allowance in addition to their basic salaries of \$5.00 for every five years of consecutive service with the Village with a maximum monthly allowance of \$25.00 per month, as per the following schedule:

0 - 5 years	\$ 0.00
5 - 10 years	\$ 5.00
10 - 15 years	\$10.00
15 - 20 years	\$15.00
20 - 25 years	\$20.00
25 years and more	\$25.00

3. Overtime (briefing time)

Section 7.05 shall read:

'7.05 - Briefing time by the Chief or Commanding Officer of the shift prior to or after the work tour of duty shall not be considered as overtime unless the briefing period extends beyond ten (10) minutes, and if so, the time spent in briefing in excess of ten (10) minutes shall be placed to the credit of the employee as overtime.

4. Holidays with Pay

Section 13.01 shall read:

'13.01 - Employees are granted the following paid holidays which may be incorporated as nine (9) additional days into their vacation allowance or may be taken as individual days at the election of the employee subject to the approval of the Chief of Police:

- | | |
|---------------------|-----------------------------------|
| a) New Year's Day | e) Thanksgiving Day |
| b) Memorial Day | f) December 24th (Christmas Eve) |
| c) Labor Day | g) Christmas Day |
| d) Independence Day | h) December 31st (New Year's Eve) |
| | i) One (1) floating holiday |

5. Insurance (Health Insurance)

Section 21.01 shall read:

'21.01 - (a) Available to all full-time employees of the Village Police Department (Coverage to be that described in Appendix 'A' or its equivalent. The Village will notify the Union thirty (30) days prior to putting any equivalent coverage into effect.)

b) Single Plan premium

- 1) Employee contribution - 0
- 2) Village contribution - 100%

c) Family Plan premium

- 1) Employee contribution - \$3.00 per month
- 2) Village contribution - balance of premium

d) 50% of the premium for Hospital and Surgical care up to age of Medicare will be paid by the Village for retired employees of the Police Department who were participants under the Village's Hospitalization and Surgical Insurance Plan.

6. Duration

Section 23.01 shall read:

'23.01 - (a) This Agreement shall become effective on January 1, 1974, and shall remain in full force and effect through December 31, 1975, and shall be renewed for successive yearly terms thereafter unless either party hereto gives at least 120 days written notice prior to an expiration date of its desire to amend or terminate this Agreement.

(b) This agreement may be reopened only for the purpose of wage negotiations on the wage rates listed in Section 4.02 for the year 1975. The party desiring such wage reopener must serve a written notice to the other party not later than July 15, 1974, or within thirty (30) days of the date of the Section 111.77 arbitration award, if such arbitration award date is later than July 15, 1974. In the event such notice is given, the parties shall bargain collectively on such wage rates."

"LAST and FINAL OFFER
of the
WEST MILWAUKEE PROFESSIONAL POLICEMEN'S ASSOCIATION

It is the Last and Final Offer of the West Milwaukee Professional Policemen's Association that the following issues remain before the arbitrator in the above-mentioned matter:

- 1) That the term of the contract be for a period of one year, January 1, 1974, to December 31, 1974.
- 2) That all benefits whether economic or non economic be retro-active to January 1, 1974.
- 3) That the wage and salary provisions for those within the bargaining unit for the year 1974 be as follows:

<u>Title</u>	<u>Monthly Salary</u>
Sergeant of Police, Detective, Juvenile Officer/Detective	First Year \$1,130.00
	Second Year \$1,185.00
Patrolmen	First Year \$ 880.00
	Second Year \$ 910.00
	Third Year \$ 950.00
	Fourth Year \$1,000.00
	Fifth Year \$1,080.00

4) That the Village of West Milwaukee may at its discretion change the carrier for health insurance provided that the new health insurance policy provide for all the same and similar benefits that the carrier provided for during the years 1972 and 1973 and that each individual in the bargaining unit has the same coverage as provided in those years by that carrier and that no additional cost for health coverage be borne by any member of the bargaining unit."

At the hearing, the parties stipulated that the longevity, holidays and health insurance items were no longer in dispute. They stipulated also that retroactivity was not an issue as they were agreed that the award rendered in this case would be effective January 1, 1974.

Also at the hearing, counsel for the Association was granted permission by the arbitrator to amend the Association's final offer to restore an item contained in the previous Association final offer which had been inadvertently omitted from the final offer sent to the arbitrator prior to the hearing. Counsel for the Employer objected to the arbitrator's decision allowing the Association to amend its offer.

The item in question, which the Association was permitted to include in its offer was as follows:

"Briefing Time. The 10 minutes of briefing time by the Chief or commanding officer of the shift prior to or after the work tour of duty shall be considered as over time and shall be paid to the employee at the employee's regular hourly pay rate in addition to his regular pay."

Thus, with the Association's amendment, there remain three issues in dispute: the length of the contract, the amount of pay increase, and briefing time.

POSITIONS OF THE PARTIES:

Employer: The Employer's position may be summarized as follows:

On Pay: The Employer offers salary comparisons with 16 other suburban Milwaukee police departments, comparing the Employer's offer with 1974 settlements reached in these other communities prior to the hearing. The Employer's offer would make its top patrolmen rate the highest of all of the communities, and \$36 per month above the average top rate in these communities. The top rate is used by the Employer and the Association as the criterion for comparison because all of the patrolmen in the bargaining unit are at the top rate. The Employer's offer would place its sergeants in 5th place and its detectives in 4th place among the 16 communities, according to the Employer.

The Employer's offer of a \$55 increase to patrolmen is the same increase offered to firefighters. At the time of the hearing the firefighters and the Employer were in arbitration. The Employer in its post-hearing brief indicated that its final offer was supported in the arbitration award, and the Employer cites this as further support for the reasonableness of its position.

With regard to the Association's position that the increase in cost of living justifies the Association's offer, the Employer argues that no other suburban communities have entered into cost of living agreements. In addition, the Employer contends that the cost of living increase should be viewed over several years, and since 1970, according to the Employer, the wages paid to patrolmen have risen faster than the increase in the cost of living.

On Length of Contract: The Employer contends that its offer of a two year agreement is reasonable, despite the rapidly rising cost of living, because the second year of the agreement would have a wage reopener provision. The Employer cites the fact that the previous police contract was for two years, as were the prior contracts between the Employer and the firefighters and the public works union. As further support, the Employer cites the fact that in the recently concluded firefighters arbitration case, the Employer's offer was a two year agreement. The Employer cites the fact that of the 16 comparison communities, 12 had two year agreements with their police. In addition to comparisons, the Employer cites the efficiency of two year agreements for improved labor relations and for reducing the need for constant negotiations.

On Briefing Time: The Association seeks 10 minutes of straight time pay each day for the briefing period. The Employer calculates this to be \$20.61 per month for top patrolmen, or approximately a 2 percent salary increase. The Employer cites the stipulation reached by the parties at the hearing that except for the City of Milwaukee, none of the other communities used for comparison purposes pay for briefing time. The Employer feels that under these circumstances there is no justification for the Association's demand, and in support of this position cites an arbitration award rendered previously by the undersigned in City of Waukesha.

Association: The Association's position may be summarized as follows:

On Pay: The Association bases its demand for an \$80 per month increase for patrolmen on the increase in the cost of living, citing the fact that in the last year the cost of living has risen 8.2 percent. The Association's final offer is an 8 percent pay increase. The Association believes that comparisons with other communities are not relevant especially without information concerning the entire packages negotiated in those communities or their ability to pay. The Association views it as significant and supportive of its position that the Employer has made no claim of inability to pay the increases sought.

With regard to the pay increase sought for sergeants, the Association views the final offer as a reasonable one, and cites the fact that sergeants are not being paid commensurate with sergeants in other municipalities.

Finally, in support of its pay requests, the Association cited departmental statistics which, it contends, demonstrate that the workload of the bargaining unit has been increasing and should be recognized through additional compensation.

On Length of Contract: The Association views a two year contract as inappropriate because it contends there are too many non-wage improvements sought by the bargaining unit which would have to be deferred for two years. The Association contends it did not accept the two year proposal and then seek arbitration, since that would have necessitated inclusion of too many items in its final offer which would have increased the risk of that offer not being supported by the arbitrator. As a result, the Association dropped many important items from its final offer. The Association views it as imperative that these items be negotiated next year. Finally, the Association argues that its acceptance of a previous two year contract resulted solely from the fact that wage controls were in effect, and there would have been nothing to be gained by reopening negotiations at the end of one year with the controls still in effect.

On Briefing Time: The Association acknowledges that only the City of Milwaukee pays for briefing time and other places in the Milwaukee area do not provide it. However, the Association contends officers must appear at the risk of disciplinary action for failing to appear, and during this briefing time they are paid only if they are sent out on assignment. The Association contends the amount of money involved is not exorbitant and that officers should be paid for all time worked. In the Association's view, if briefing time is so important the Employer should pay for it. If it is not so important, the Employer should eliminate it. The Association views briefing time with pay as a reasonable position in and of itself, and also because the Association dropped so many of its other demands in negotiation.

DISCUSSION:

There are three issues involved in this case, although in the arbitrator's view only two of them merit further consideration in determining the outcome of the case. The third issue, the length of the contract, is a "neutral" issue, as the arbitrator views this case, because it does not affect the reasonableness of the parties' final offers. Both one year agreements with reopeners, and two year agreements are commonplace and either would seem appropriate.

The two remaining issues are the wage increase and briefing time.

Wage Issue:

In a year in which the cost of living increase more than 8 percent, an offer by the Association of 8.0% would seem to be more reasonable than the 5.5% offered by the Employer. The 5.5% figure was the common increase given in the prior year when wage controls were in effect. This judgment concerning the reasonableness of the 8% figure is not altered by the fact that the Employer offered 5.5% to other units of its employees and received support for its final offer in a recent arbitration award involving its firefighters.

The Association has pointed out that the Employer has not used "ability to pay" as a defense. The arbitrator agrees that ability to pay is not a factor in this case.

The reasonableness of the Employer's offer is supported by the wage comparisons put into evidence. Comparisons with other Milwaukee suburban communities show the salaries paid by the Employer to be not only competitive, but generally high. With the Employer's salary offer, the top patrolmen rate is the highest of the rates paid in the 16 communities used for comparison by the Employer. Using top detective pay, the Employer's offer is higher than 10 of the 13 communities for which data are given. For sergeants, the Employer's offer is higher than 12 of the 16 communities. Implementation of the Association's salary offer would not significantly change the rankings, but would move the Employer closer to the top in pay given to detectives and sergeants. The Association's exhibit of comparative data for top patrolmen, while using several additional communities, did not indicate a pattern different from that found in the Employer's exhibits.

The Association's exhibit also enables one to calculate the percentage increase given in 1974 over 1973 in the comparison communities. In only 2 of the 15 communities for which data are shown did the increases exceed 7% and the increases were mainly in the 5-7% range. Thus, it is clear that salary increases given to police in other suburban Milwaukee communities did not keep pace with the rise in the cost of living.

In further support of its offer, the Association attempted to demonstrate that the bargaining unit's workload had increased. The testimony did not persuade the arbitrator that this is a significant factor.

Briefing Time:

In the arbitrator's view, the balance shifts toward support of the Employer's final offer when the briefing time issue is considered. The Association's position is reasonable that an officer should be paid for time worked. However, one's judgment about paid briefing time is tempered somewhat by the additional cost, but especially by the fact that no police force in the Milwaukee area outside of the City of Milwaukee pays for such time.

The arbitrator does not view the arbitration procedure as a device for pattern setting, or for initiating changes in basic working conditions absent a showing that the conditions at issue are unfair or unreasonable, or contrary to accepted standards in the industry, in this case police work. There was no showing by the Association that paid briefing time is a common standard in police work generally, or that unpaid briefing time is unfair given overall compensation and working conditions in police work. There is apparently a tradition of unpaid briefing time as a normal part of police work in the communities in the Milwaukee area. The reasons for the tradition were not discussed by either party at the hearing or in briefs. Under these circumstances, the arbitrator is most reluctant to change this condition without a sound basis for so doing, which he finds lacking in this case.

Having considered all of the facts in this case, and the statutory decision-making criteria, the arbitrator makes the following

AWARD

The arbitrator awards in favor of the Employer's final offer.

Dated at Madison, Wisconsin, this 21st day of June, 1974.

Edward B. Krinsky /s/
Edward B. Krinsky, Arbitrator